

COUNCIL BLUFFS, IOWA

ZONING BOARD OF ADJUSTMENT

ANNUAL REPORT

2009

January 1, 2009 – December 31, 2009

PREPARED BY

**COMMUNITY DEVELOPMENT DEPARTMENT
CITY OF COUNCIL BLUFFS**

April 14, 2010

Mayor and City Council
City Hall
209 Pearl Street
Council Bluffs, IA 51503

Mayor and Members of the City Council:

The Zoning Board of Adjustment transmits for your information this copy of the *2009 Annual Report*. This report contains a summary of the action taken by the Zoning Board of Adjustment in handling the various cases referred to them during the year.

I would like to take this opportunity to thank the other members of the Zoning Board of Adjustment and the staff of the Community Development Department for their efforts and support during the past year. I hope that together we can continue to serve the City of Council Bluffs in a program of progressive community development.

Respectfully submitted,

Matt O'Reilly, Chair
Zoning Board of Adjustment

MO/RLS

ZONING BOARD OF ADJUSTMENT

Matt O'Reilly, Chair
Mark Andrews
Bobbette Behrens
Matt Garst
Memory Mescher

MAYOR

Thomas P. Hanafan

CITY COUNCIL

Darren Bates
Scott Belt
Lynne Branigan
Matt Schultz
Matt Walsh, Jr.

COMMUNITY DEVELOPMENT DEPARTMENT

Donald D. Gross, Director
Gayle M. Malmquist, Development Services Coordinator
Rose E. Brown, Urban Planner
Rebecca L. Sall, Planning Technician
Cindy A. Clark, Administrative Secretary
Patrick McFadden, Zoning Enforcement Officer

ZONING BOARD OF ADJUSTMENT

MEMBERS AND TERMS

2009

<i>Members</i>	<i>Appointed</i>	<i>Re-appointed</i>	<i>Expires</i>
Mark Andrews	May 17, 1999	May 27, 2009	April 1, 2014
Bobbette Behrens	December 12, 2005	April 9, 2007	April 1, 2012
Matt Garst	January 10, 2006		April 1, 2010
Memory Mescher	April 23, 2001	March 13, 2006	April 1, 2011
Matt O'Reilly	June 12, 2000	March 28, 2005	April 1, 2010

ATTENDANCE 2009

<i>Members</i>	<i>Present</i>	<i>Absent</i>
Mark Andrews	7	3
Bobbette Behrens	8	2
Matt Garst	8	2
Memory Mescher	9	1
Matt O'Reilly	9	1

Meetings: Ten meetings were held in 2009. The January and March meetings were cancelled because there were no cases for consideration. Regularly scheduled meetings are held on the third Tuesday of each month.

SUMMARY OF ACTIVITIES

Introduction

The Zoning Board of Adjustment consists of five members appointed by the Mayor to staggered five-year terms. The Board has the power to hear and decide appeals where there is alleged to be an error in any order, requirement, decision or determination made by an administrative official or building official in the enforcement of Title 15 of the Municipal Code (Zoning Ordinance). Persons may apply to the Board in an effort to seek relief from any requirement of the Zoning Ordinance as set forth by State law. Appeals to the Board may be taken by any person or organization that believes that they have been aggrieved by an officer, department, or board of the municipality.

Variance Requests

In 2009, the Board heard nine cases relating to variances from the requirements of the Zoning Ordinance. This compares to three requests in 2008 and six requests in 2007.

The Community Development Department recommended approval of six requests and denial of two. On one, the Community Development Department recommended that if the Board found a hardship, the request should be granted and that if the Board found no hardship, the request should be denied. The Board approved part of the request and denied part. On other cases heard, the Board agreed with the department on six of the recommendations and disagreed on two, approving seven variances and denying one. The Board endorsed the Community Development Department recommendations 75% of the time.

Conditional Use Permits

Two cases relating to new conditional use permits were heard by the Board in 2009. This compares to seven requests in 2008 and three in 2007. One case was to allow a salvage operation in an I-2/General Industrial District and one was to allow extraction activity in an A-2/Parks, Estates and Agricultural District.

The Community Development Department recommended approval of both of the requests and the Board concurred.

Miscellaneous

The Board also heard one appeal of an administrative decision. The Community Development Department recommended the decision be upheld but the Board overturned the decision and granted the request.

Overall, the Board endorsed the Community Development Department's recommendations 73% of the time.

Conditional Use Permit Revocations

The Zoning Board of Adjustment also revoked conditional use permits previously approved for 28 properties, all of which had been requested by the Community Development Department.

ZONING BOARD OF ADJUSTMENT
VARIANCES
2009

- 1. CASE #BA-09-001** **1116 College Road**
A 2.5 foot front yard setback variance and a variance to allow the enlargement of a nonconforming structure.

CDD: Approval *ZBA: Approval*
- 2. CASE #BA-09-002** **2730 East Kanesville**
An 80.5 foot front yard setback variance to allow an accessory structure to be set closer to the front property line than the existing principal structure.

CDD: Approval *ZBA: Approval*
- 3. CASE #BA-09-003** **2849 Birdsley road**
A variance to allow hard surfacing on the first 100 feet of the existing driveway and leave the majority in gravel.

CDD: Denial *ZBA: Denial*
- 4. CASE #BA-09-004** **637 Forest Drive**
A 9 foot side yard setback variance to allow the construction of an attached garage and screened porch.

CDD: Approval *ZBA: Approval*
- 5. CASE #BA-09-005** **330 North 40th Street**
A 17 foot rear yard setback variance to allow the construction of an attached garage.

CDD: Approval *ZBA: Approval*
- 6. CASE #BA-09-006** **202 Morgan Street**
A 9- foot street side yard setback variance to allow the construction of a detached garage.

CDD: Denial *ZBA: Approval of a 3 foot variance for an attached garage*

7. CASE #BA-09-007

3415 West Broadway

Variances from Chapter 15.32 relating to Screening and Buffering, Signs and Lighting.

*CDD: Approve if hardship is found
or deny if not found*

*ZBA: Approval of part and
denial of part*

8. CASE #BA-09-008

331 Huntington Avenue

A 2.5 foot side yard setback variance and a variance to allow the construction of an attached garage onto an existing nonconforming structure.

CDD: Approval

ZBA: Approval

9. CASE #BA-09-009

400 Gleason Avenue

A 59 square foot area variance to allow additional signage.

CDD: Approval

ZBA: Approval

ZONING BOARD OF ADJUSTMENT
CONDITIONAL USE PERMITS

2009

- 1. CASE #CU-09-001** **2577 South Avenue**
A conditional use permit to allow a salvage operation (concrete and asphalt recycling facility) in an I-2/General Industrial District.

CDD: Approval *ZBA: Approval*
- 2. CASE #CU-09-002** **505 Delong Avenue**
A conditional use permit to allow day care services in an R-1/Single Family Residential District.

(Case withdrawn by applicant prior to public hearing.)
- 3. CASE #CU-09-003** **2606 Railroad Highway**
A conditional use permit to change an existing nonconforming use (contractor yard) into another, more restrictive nonconforming use (trucking company) in a C-2 Commercial District.

(Case withdrawn by applicant prior to public hearing.)
- 4. CASE #CU-09-004** **72 acres north of East
Kanesville Blvd. and West of
Railroad Highway**
A conditional use permit to allow extraction activity in an A-2/Parks, Estates and Agricultural District.

CDD: Approval *ZBA: Approval*

ZONING BOARD OF ADJUSTMENT
MISCELLANEOUS

2009

- 1. CASE #AP-09-001** **Lot 41, Lakoma Addition**
Appeal the decision to not allow the construction of a detached garage as a principal use on a vacant lot in an R-2/Two Family Residential District

CDD: Uphold Decision *ZBA: Overturn decision*

ZONING BOARD OF ADJUSTMENT
CONDITIONAL USE PERMIT REVOCATIONS

2009

1. **CASE #CU-70-008** **2700 Block of South 6th Street**
Single family dwellings in a C-2/General Commercial District approved on September 22, 1970.
2. **CASE #CU-90-010** **7235 Avenue A**
Precision and light machining in a C-2/ General Commercial District approved on August 21, 1990.
3. **CASE #CU-94-005** **109 south 28th Street**
A motor vehicle parts and components recycling facility in a WM/Wholesale Manufacturing district approved on September 20, 1994.
4. **CASE #CU-99-002** **Blocks 46 & 67, Railroad Add.**
Commercial storage and watchmen's quarters in a C-2 Commercial District approved on April 20, 1999.
5. **CASE #CU-99-008** **100 Power Drive**
Day care services an a C-2 Commercial District approved on December 21, 1999.
6. **CASE #CU-02-005** **2800 Twin City Drive**
Day care services & light manufacturing in a C-2 Commercial District approved on December 17, 2002.
7. **CASE #CU-71-001** **1519 Avenue D**
Concrete products pre-casting and tool/material storage in a C-2 Commercial District approved on January 26, 1971.
8. **CASE #CU-74-005** **3205 Renner Drive**
A nursery school and an R-1/Single Family Residential District approved on July 25, 1974.
9. **CASE #CU-77-002** **14 Windsor Avenue**
A day care center in an R-1/Single Family Residential District approved on April 13, 1977.
10. **CASE #CU-79-002** **312 North 35th Street**
A day care center in an R-2/Two Family Residential District approved on February 14, 1979.
11. **CASE #CU-81-004** **2810 – 5th Avenue**
A day care center in a C-1/Neighborhood Commercial District approved on July 8, 1981.
12. **CASE #CU-81-006** **2800 Twin City Drive**
A day care center in a C-2/General Commercial District approved on August 12, 1981.
13. **CASE #CU -84-003** **726 – 8th Avenue**
A day nursery in an R-3/Multi-Family Residential District approved on March 20, 1984.
14. **CASE #CU-84-004** **1810 South 9th Street**
A group home for temporary shelter in an R-2/Two Family Residential District approved on April 17, 1984.

- 15. CASE #CU-84-005** **405 Park Avenue**
A group home for temporary shelter in an R-2/Two Family Residential District approved on April 14, 1984.
- 16. CASE #CU-84-006** **124 South 33rd Street**
Watchmen's quarters in a C-2/General Commercial District approved on April 14, 1984.
- 17. CASE #CU-85-009 & CU-93-002** **1522-1530 Avenue C**
Custom manufacturing of goods or merchandise for sale at retail in a C-2/General Commercial District approved on December 2, 1985 and amended on March 20, 1990.
- 18. CASE #CU-86-001** **522 South 24th Street**
A day nursery in an R-2/Two Family Residential District approved on February 18, 1986.
- 19. CASE #CU-89-004** **524 Oakland Avenue**
A day nursery in an R-2/Two Family Residential District approved on September 19, 1989.
- 20. CASE #CU-78-003** **930 – 5th Avenue**
A retail grocery store with gasoline fueling facilities in a C-1/Neighborhood Commercial District approved on September 13, 1978.
- 21. CASE #CU-86-009** **634 Lori Lane**
A day care nursery in an R-1/Single Family Residential District approved on July 15, 1986.
- 22. CASE #CU-88-004** **1204 – 6th Avenue**
A day care center in an R-3/Multi-Family Residential District approved on June 21, 1988.
- 23. CASE #CU-95-001** **716 – 4th Street**
A day care center in a C-3/Central Business District approved on July 18, 1995.
- 24. CASE #CU-96-004** **2101 Avenue C**
A day care center in an R-2/Two Family Residential District approved on August 20, 1996.
- 25. CASE #CU-96-005** **1800 5th Avenue**
A day care center in an R-2/Two Family Residential District approved on September 17, 1996.
- 26. CASE #CU-01-005** **1930 – 5th Avenue**
Day care services in an R-2/Two Family Residential District approved on August 21, 2001.
- 27. CASE #CU-02-002** **900 Woodbury, Suite 4C**
Day care services in a C-2 Commercial District approved on April 16, 2002.
- 28. CASE #CU-03-005** **1325 Lew Ross Road**
A day care center in an I-2/General Industrial District approved on January 20, 2004.